

**MINUTES  
of the  
THIRD MEETING  
of the  
LAND GRANT COMMITTEE**

**August 20-21, 2007  
Opus House  
Truchas**

The third meeting of the Land Grant Committee (LGC) for the 2007 interim was called to order by Representative Miguel P. Garcia, chair, on Monday, August 20, 2007, at 10:26 a.m. in Opus House in Truchas.

**Present**

Rep. Miguel P. Garcia, Chair  
Sen. Richard C. Martinez, Vice Chair  
Sen. Rod Adair  
Sen. Joseph J. Carraro  
Rep. Jimmie C. Hall  
Rep. Debbie A. Rodella

**Absent**

Rep. Justine Fox-Young  
Rep. Manuel G. Herrera  
Sen. Gerald Ortiz y Pino  
Sen. James G. Taylor

**Advisory Members**

Rep. Paul C. Bandy  
Sen. Carlos R. Cisneros  
Rep. Thomas A. Garcia  
Rep. Ben Lujan (Aug. 20)

Sen. Phil A. Griego  
Sen. Bernadette M. Sanchez  
Sen. William E. Sharer  
Rep. Eric A. Youngberg

(Attendance dates for members not present both days are shown in parentheses.)

**Staff**

Jon Boller  
Kate Ferlic  
Tamar Stieber

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

## **Monday, August 20**

### **Welcome, Introductions and Invocation**

Representative Miguel P. Garcia, speaking in English and Spanish, welcomed an audience of approximately 40 people to the meeting. He invited Olivama A. Martinez, a member of Nuestra Señora del Rosario, San Fernando y Santiago Land Grant, to conduct an invocation. After members of the committee introduced themselves, Representative Miguel Garcia explained the agenda and introduced Rio Arriba County Commissioner Elias Coriz and Nuestra Señora del Rosario, San Fernando y Santiago Land Grant Secretary Ed Vigil.

Mr. Coriz thanked the LGC and the Village of Truchas for inviting him and said land grant issues are "close to his heart" because he is an heir to the Santa Cruz de la Cañada Land Grant. He said the county is working with the land grants in and around Rio Arriba County on such projects as:

- renovating the Oñate Monument Resource and Visitors Center to include a research center for land grants throughout New Mexico;
- economic development;
- abatement of illegal dumping. Mr. Coriz said that with help from the land grant, the county secured a lease for the new transfer station between Cordova and Truchas, where residents with a permit can dump trash for free; and
- arranging for portable buildings where land grant and acequia organizations can conduct meetings.

Mr. Coriz said the county wants to work with state lawmakers individually as well as with legislative committees to help land grants establish an economic base. He cited a *dicho* in Spanish that translates to, "You can steal more money with a pen than with a pistol". Rather than fighting, said Mr. Coriz, "We need to get people to compensate us back with the pen".

Mr. Coriz recognized Rio Arriba County Sheriff Joe Mascarenas before taking questions.

Representative Rodella asked Mr. Coriz if Rio Arriba County could send a representative to the LGC's meeting in Chama on September 6 to explain what position the county is taking on private landowners who acquired land grant property in Ensanada and then fenced off a section of the old road to Taos. Mr. Coriz assured the committee that the county would have a representative present at the Chama meeting to address that issue.

### **Guadalupe Hidalgo Treaty Division, Office of the Attorney General (AGO)**

Attorney General Gary King apologized for having only a short amount of time to spend with the committee, explaining that he had to fly out that evening for a meeting in Washington, D.C. He explained what the AGO is doing to carry out legislation that created the Guadalupe Hidalgo Treaty Division in the AGO.

Attorney General King said the AGO requested funding last session for three full-time employees (FTEs) specifically for the Guadalupe Hidalgo Treaty Division. He said his analysis

was that it would be a "good-sized unit to deal with (land grant) issues", but he was unsuccessful in gaining the appropriation to do that. He said it is "most important" to him to have it in next year's budget and asked the committee to speak to colleagues in the legislature and "let them know it's an important issue". He said his goal is to have an attorney, a paralegal and an administrative staff person devoted exclusively to land grant issues.

Attorney General King said he has a personal interest in land grant issues because the district he represented when he was in the legislature contained three land grants. Of particular concern to him at that time was that land grants be recognized as local government units to avoid problems with New Mexico's anti-donation laws. He said one of his goals is to see all New Mexico community land grants achieve political subdivision status. He stressed, however, that the state constitution does not empower his office to give legal opinions to political subdivisions of the state unless a lawmaker, the governor or a cabinet secretary requests it. But he said his office can still offer advice to local governments on complying with state laws such as the Open Meetings Act and the Inspection of Public Records Act.

Representative Rodella reminded Attorney General King that his office received a \$20,000 appropriation, available at the beginning of this fiscal year, to respond to a federal report on the Treaty of Guadalupe Hidalgo. She said the response was never completed and wanted to know how much money had been earmarked for in-house work on the document and how much for contract work. The attorney general said his office is working with the Administrative Services Division on performance criteria for a contractor to do the work.

Representative Hall said he wants to make sure the AGO hires people with "institutional knowledge...to take the land grant issue forward" and hopes the AG would consider the Guadalupe Hidalgo Treaty Division a priority. Attorney General King said he is sure that Alvin Garcia, the assistant attorney general currently in charge of all land grant issues, will be a "major player".

Senator Martinez thanked Attorney General King for speaking to the committee, noting that "it's not everyday we get the actual attorney general to come to our meetings". He said the committee appreciates his support and commitment to land grant issues and that, while he understands the AGO cannot give support to every political subdivision in the state, he thinks it important that the AGO give "an extra helping hand" to land grants to help them "get on their two feet". He also suggested that someone from the AGO attend all LGC meetings.

Attorney General King said Alvin Garcia is an aggressive advocate for land grant issues and would like to be working on those issues full time. Noting that Alvin Garcia is a "young guy [with] lots of opportunities out there", Attorney General King added, "If you can find the resources...we'd love to be able to keep him".

Attorney General King said he requested staffing last year for the AGO's Government Accountability Unit and thinks that may be why the legislature did not appropriate funds to staff the Guadalupe Hidalgo Treaty Division. This year, however, he does not expect to be requesting

a lot of new staff positions, "so maybe this will bubble more to the top", he said.

Attorney General King said his budget requests are due September 4 and he expects a budget hearing before the Legislative Finance Committee (LFC) in November. Representative Rodella moved that the LGC submit a letter to the LFC supporting the AGO's request for an attorney, paralegal and administrative staff person for the Guadalupe Hidalgo Treaty Division. Senator Cisneros seconded the motion and the committee, acting as a subcommittee for lack of a quorum, approved the motion unanimously.

Representative Miguel Garcia said he and Vice Chair Martinez would appear before the LFC to emphasize the significance of the Guadalupe Hidalgo Treaty Division. Representative Miguel Garcia said he would also meet with the governor's contact person on land grant issues.

In response to a request from Representative Rodella, Attorney General King provided details on the upcoming public seminar in Chama about open meetings and public records. The gist, he said, would be "to avoid being scammed and separated from your money", to which Representative Miguel Garcia commented, "Maybe we can get the subprime lenders to go".

Senator Cisneros said that while it is important to teach land grant communities what is involved in becoming a political subdivision, it is equally important to provide formal training in fiduciary responsibility, especially because land grant communities will be receiving state and federal funding. Attorney General King said he will get his training coordinator to work on that.

Representative Miguel Garcia read the following aloud from Article 2, Section 5 of the Constitution of New Mexico: "The rights, privileges and immunities, civil, political and religious guaranteed to the people of New Mexico by the Treaty of Guadalupe Hidalgo shall be preserved inviolate". He said the federal Bureau of Land Management (BLM) and the United States Forest Service (USFS) have surveyed land grants and put in markers that encroach on land grant property, "knowing full well what the original documents stated were the boundaries". He said it is up to the attorney general, as the state's leading law enforcement officer, to pursue those inequities and up to the legislature to "uphold those conditions and rights". He said that is why the committee has pushed hard to get funding for the Guadalupe Hidalgo Treaty Division.

Representative Miguel Garcia said the last attorney general — Patricia Madrid — had a conflict of interest in funding the division because her husband was pursuing a lawsuit against a land grant. "She should have been up front", he said. "For four years she led us on and that's not right".

Representative Miguel Garcia said it is crucial that the AGO "stand up" to the federal government. He described the federal GAO report on the Treaty of Guadalupe Hidalgo as "watered down" and a "real slap in the face". He vehemently disagreed with the report's conclusion that the loss of 60% of land grant property was "unintentional".

"It wasn't unintentional", he said. "It was clear-cut fraud. The Santa Fe Ring worked in

collusion with the feds to take land from these people".

Representative Miguel Garcia suggested the AGO recontract with attorney David Benavides to finish his work on the response to the GAO report on the Treaty of Guadalupe Hidalgo. He said it is crucial that the state stand up to the federal government and that the Abiquiú Land Grant has a viable claim to make such a challenge. But, he added, "if our leading law enforcement officer doesn't fight at the federal level, we're blowing in the wind".

Attorney General King said he will work on those issues. He said he believes that because the AGO represents the interests of the state, those can include the interests of subdivisions of the state, particularly when dealing with the federal government. He asked the committee to be sure that Alvin Garcia knows the specifics of each case.

### **Audience Introductions**

Representative Miguel Garcia asked audience members to introduce themselves. The land grants they represented included Abiquiú; Chilili; Jacona; Las Trampas; Nuestra Señora del Rosario, San Fernando y Santiago; San Ensanada; Santa Barbara; and Santa Cruz de la Cañada.

### **Land Grant Updates and Issues**

Mr. Vigil of Nuestra Señora del Rosario, San Fernando y Santiago Land Grant introduced several members of the land grant's board and described some successes they have achieved, including:

- approving a watershed plan;
- acquiring a transfer station;
- planting 35,000 seedlings on land grant property;
- acquiring a grant to clear brush and build earthen dams and culverts for rotational grazing; and
- thinning out small trees and brush.

Mr. Vigil asked the committee's help in getting money to clean up trash in the land grant's arroyos and in determining whether Nuestra Señora del Rosario is a private or a community land grant in the eyes of the state. Representative Rodella noted that there is an important distinction in law between community and private land grants. Representative Miguel Garcia explained that community land grants were those grants that were given common lands in their original grants, which the boards of trustees now administer for the benefit of the members of those grants. This is in contrast to private land grants that were given to individual landowners. He said the rationale behind allowing community land grants to become political subdivisions of the state was to help protect them from further loss of lands and give them more control over zoning and other activities. He stressed that it was not a way of "taking over land grants by the políticos".

Representative Rodella complained about an article that appeared in the *Rio Grande Sun*, which she claimed erroneously accused the county of violating anti-donation laws by giving state appropriations to land grants for community centers. She stressed that land grants with political subdivisions are legally entitled to state money and moved that the committee draft a

letter to the newspaper explaining the law. Senator Martinez seconded the motion, which the committee, still acting as a subcommittee, approved unanimously.

Senator Martinez, who sponsored a \$25,000 statewide appropriation for cleanup of illegal dumps, said he intended the money to be used by land grants. He said that while not all counties in the states have land grants within their boundaries, the legislature thought it would be easier to distribute the appropriations to the counties rather than have each individual land grant request the money.

Representative Bandy asked Mr. Vigil about the history of the Nuestra Señora land grant. Mr. Vigil deferred the question to former board member John Chavez, who now sits on the board of Santa Cruz de la Cañada Land Grant and personally hosted the LGC's meeting in Truchas. Mr. Chavez explained that in 1754, the Santa Cruz de la Cañada Land Grant became overcrowded and did not have enough of an agriculture base to maintain the population. Twelve individuals petitioned the king of Spain for their own land grant. He said the king granted them 25,000 acres of land after they met three criteria: 1) creating an acequia system; 2) building a church; and 3) building a central plaza. When Mexico took control, it recognized only 22,000 acres of the new land grant. Twenty-seven years later, following the Mexican-American War and the signing of the Treaty of Guadalupe Hidalgo, the United States recognized only 14,000 of those acres.

"Please don't give us any more land", Mr. Chavez said. "Every time someone gave it to us, it got smaller".

Representative Bandy asked what happened with the rest of the land. Mr. Chavez said 5,000 acres sit in the Santa Fe National Forest; 3,000 acres are managed by the BLM, which wants to build an all-terrain vehicle recreational park there — the so-called Fun Park; and 5,000 acres have been lost to privatization. That leaves about 10,000 acres of common lands, he said.

Representative Miguel Garcia said that becoming a political subdivision is a good thing for *mercedes* (land grants) because it means they retain control of their land. He said land grants such as Manzano, which claims to be a political subdivision even though it never registered with the secretary of state and is actually a statutory land grant, give other land grants a bad name. He stressed the importance of bylaws that say only people with direct blood lineage to the original land grantees can be considered heirs. Otherwise, he said, anyone can offer money to become a land grant member.

Delvin Garcia of the Abiquiú Land Grant discussed a number of concerns, including:

- reclaiming abandoned properties that are part of the land grant but that the Department of Game and Fish and the Española School District currently own;
- asbestos tile in Española's abandoned elementary school;
- getting some of Rio Arriba County's state appropriation money to build a park and whether the land grant could be its own fiscal agent on projects;
- cleaning up trash in the arroyos and river and preventing illegal dumping and the

- possibility of at least getting some dumpsters; and
- determining heirs to the land grant.

Representative Miguel Garcia said the legislature passed a bill in 2004 giving land grants with political subdivision status the right of first refusal on state-owned property up for sale. He also said the committee helped get some \$40,000 for the State Records Center and Archives to do certified abstracts identifying land grant property, which will save land grants thousands of dollars and give them standing to challenge government agencies on ownership.

Delvin Garcia said he heard that the Department of Game and Fish intended to dispose of a parcel of land within the grant. Representative Miguel Garcia offered to put Delvin Garcia in touch with the chief counsel for the department and invited him and other land grantees to the LGC's September 6 meeting in Chama to discuss directly with invited representatives of the BLM how to reclaim BLM-managed property within land grants. He said the BLM has a "funky" way of disposing of properties.

Representative Rodella asked Delvin Garcia if he contacted the Española school board about the abandoned land. Delvin Garcia said he has contacted the board once a year for the past 12 years with no results. He said the board invited him to its meetings, then uninvited him, asking him not to "open that can of worms".

Representative Rodella said she and other members of the committee could meet with the school board and urge it not to dispose of the property before giving the land grant a chance to buy it back. Regarding the BLM's abandoned property, she asked if the agency uses it. Delvin Garcia said no, that land grant heirs are grazing cattle there. Representative Rodella said the agency may want compensation for the land if it put any money into the property. Delvin Garcia said the BLM has not put money into the property during his lifetime, even though it should have invested in erosion control along the riverbanks.

In response to questions from Representative Miguel Garcia, Delvin Garcia said the Abiquiú Land Grant converted from a land grant to a livestock cooperative in the 1920s, though he said the decision may have been made by someone who was not a member. He said the state began taxing the land, but none of the heirs knew it until the land grant wound up in tax court. Representative Miguel Garcia noted that the federal government paid off the tax delinquency.

Senator Martinez advised Delvin Garcia to get himself on the agenda of a school board meeting to discuss the school district's abandoned land, adding that he would also be willing to meet with the board to convince it either to donate the property or sell it cheaply to the land grant.

Mr. Chavez told the committee that the Santa Fe National Forest is encroaching on the Nuestra Señora del Rosario, San Fernando y Santiago Land Grant with a 15-mile stretch of brass markers that he said are 1.2 miles beyond the forest's borders. He said the state has an obligation to rectify the situation under the Treaty of Guadalupe Hidalgo. Representative Rodella called

this a "prime example" of the type of case the AGO should handle. Representative Miguel Garcia advised Mr. Chavez to meet with Alvin Garcia and provide specifics.

Mr. Chavez presented a brief history of the Santa Cruz de la Cañada Land Grant, which he described as "reconstituted". He said the land grant originally comprised 40,000 acres deeded in 1695 to Spanish settlers and later recognized by Mexico. But the United States only recognized 10% of that when it took control of the territory, restricted grantees to individual allotments and confiscated the common lands, he said. By 1897, the land grant was "defunct", but reorganized in 2004 as a historical land grant and a political subdivision, he said. Since then, it has received \$350,000 in appropriations, with \$150,000 going toward construction of an economic development facility for which the land grant entered into a joint powers agreement with the county, Mr. Chavez said. The facility will house a senior center, sheriff and fire department substations, a post office, the Chimayó Mutual Domestic Water Association and an office for the land grant. The county will own the land and the land grant will own the structure, he said. Representative Rodella advised Mr. Chavez to set the ownership down in writing. Mr. Chavez said that the land grant commissioned a genealogical study for the years between 1695 and 1880, which has made it possible to trace today's heirs back to the 1880s. He said approximately 200 descendants have registered with the land grant board so far.

Mr. Chavez noted that the land grants not only look after their members, but look after the community as a whole. He said the Nuestra Señora del Rosario, San Fernando y Santiago Land Grant was leasing to the Española school district 20 acres of land for \$15.00 a year until 1990, when the parties renegotiated the lease for \$50.00 a year. He said that the land grant also provides easements for all public roads. Senator Martinez suggested that, at the meeting with the Española school district, land grant members should remind the board members that the land grant has been "very friendly and generous" to the district and spell out the things the land grant has done for the community.

### **Chimayó Museum**

Lorraine Vigil, executive director of the Chimayó Museum, gave a brief history and description of the museum. She said it was established in 1995 by a group of Chimayó residents who felt they wanted to preserve the area, which she said dates back to the 1700s and is one of the last intact fortified communities in New Mexico. She said the Plaza del Cerro, which houses the museum, is a "lived-in" plaza. "I consider it a gem", she said.

Ms. Vigil said the museum's collection includes artifacts dating from the 1800s as well as 75 photos of weavings and artwork by local artisans. Projects the museum has undertaken include:

- a community haunted house;
- a student art show;
- demonstrations of straw inlay, micaceous clay pottery, carvings, etc.;
- Chimayó Festival of Arts studio tour;
- a DNA project to help determine the lineage of Chimayó residents;
- restoration of the Oratorio de San Buenaventura;



- a collaborative water bank; and
- hosting Elderhostel.

Ms. Vigil said the museum needs a new building and many of the existing structures on the Plaza del Cerro need restoration. She would also like a library for the village and a classroom for local children. "We have a lot of ideas but we're a small board with no money", she said.

Representative Miguel Garcia complimented Ms. Vigil on operating a museum in and about a traditional land grant settlement. "The things they do with so little — imagine what they can do with more", he said.

Senator Cisneros said he would be willing to sponsor legislation to get money for the museum, but advised Ms. Vigil that the money would be allocated to the county and she would have to make arrangements with the county to make sure the museum got it. Representative Rodella suggested that the Santa Cruz de la Cañada Land Grant could take ownership of the museum and buildings and then enter into a long-term contract with the museum to continue its operations.

Representative Rodella noted that she grew up in Chimayó, where she lived across from the Catholic church. She said she used to accompany her grandmother to the post office in the Plaza del Cerro everyday in hopes of finding a letter from her uncle in the military. "I appreciate all the hard work you and your family did with this project to preserve the cultural traditions of our ancestors", she told Ms. Vigil.

### **Lunch**

The committee recessed for lunch at 12:45 p.m. and resumed at 1:30 p.m.

### **Land Grant Council Proposal**

Arturo Archuleta of the North Central Economic Development District and Juan Sanchez of Chilili presented a discussion draft of a bill to establish a state Land Grant Cooperative Council that would be administratively attached to the Department of Finance and Administration. The council, much like a council of governments, would provide technical assistance to land grants, which he said are fighting an "uphill battle" because most lack the expertise and resources to deal with regulations, as well as avail themselves of the tools, that accompany political subdivision status.

Asked how much the annual dues are for council of government members, Mr. Archuleta replied that it varied, but is often based on the population of the member. Asked what kind of appropriation would be needed to run the Land Grant Cooperative Council, Mr. Archuleta said it would cost about \$200,000 to \$250,000 per year for a staff of three. Councils of government get about \$75,000 per year, he said. Responding to further questioning about the proposal, Mr. Archuleta explained that there was already a New Mexico Land Grant Council that was empowered to do all the things allowed for in the bill, but that the member land grants could not afford to pay for permanent staff for the council.

Committee members expressed concern about the cost of creating another state agency; that having too many proposals at once in front of the legislature could hinder the committee's efforts to promote funding for the Guadalupe Hidalgo Treaty Division and the Land Grant Studies Program during the next legislative session.

### **Cleanup of Illegal Dumps Grant Program**

E. Gifford Stack, outreach manager for the New Mexico Department of Environment (NMED) Solid Waste Bureau, said land grants are eligible to apply for grants to abate illegal dumping and fund recycling programs. He said the grant program receives about \$600,000 per year out of \$800,000 in revenue from a \$.50 per vehicle annual registration fee and covers two types of grants — one specifically for tires, which accounts for two-thirds of the budget, the other for non-tires. He noted that the program does not receive environmental disposal fees that customers must pay to new tire dealers.

Mr. Stack said the program received approval from the Environmental Improvement Division in April 2006 and awarded its first grant in June 2007. He said that after the next round of awards in late July or early August, \$150,000 in grant money will remain in the current fiscal year, with an October 1 application deadline. He urged land grants to apply, saying his department has had "a heck of a time trying to reach out to land grant communities, to be very candid". He complimented Mr. Boller and Mr. Archuleta on providing him recently with a land grant contact list and said the department sent a flyer about the grants to everyone on the list.

Representative Rodella said she was "perturbed" about the difficulties the NMED had in getting contact information for land grants. Noting that the secretary of state maintains a registry of land grants, she said, "I thought that would be sufficient to provide information to other state agencies". Mr. Stack said he took "full responsibility". Representative Rodella asked staff to make sure the land grant list is available at the Secretary of State's Office and on the state web site "so we don't encounter this again".

Representative Rodella wanted to know whether the NMED is providing a means to recycle tires. Mr. Stack said his department has a staffer dedicated to tire recycling and that the NMED works with the Department of Transportation (DOT) to get communities to use tire bales for engineering applications. Roswell, for example, used about 650 tire bales on an embankment stabilization program, he said. Noting that the state generates 1.9 million scrap tires a year, he added, "If I were king for a day, I'd have the DOT use more rubberized asphalt in their product".

Senator Carraro asked about oversight of the grant money. Mr. Stack assured him that no grant gets approved without input from an enforcement officer, who does an on-site inspection.

Responding to a question from Speaker Lujan, Mr. Stack said the department gives grants to eight government entities per year. Since 2004, he said, the NMED has given away \$2.1 million in tire grants and just awarded its first non-tire grant for \$250,000.

Guy Eden, president of the Jacona Land Grant, of which Speaker Lujan is a member, said

he had never heard about the NMED grants prior to Mr. Stack's presentation. He said his community has a problem with illegal dumping and would be "tickled to death" to get funding to clean it up.

Representative Miguel Garcia said it is uncommon for a committee to put a department secretary or division head on the "hot seat", but that it is important for Mr. Stack's division to realize that land grants have little or no staff, so it is up to the division to do outreach. "You've got to come out here and smell the roses and the *osha*", Representative Miguel Garcia said.

Filimon Sanchez, chair of the board of trustees at Las Trampas Land Grant, said his community has numerous illegal dump sites within the land grant. He said he would like the state and county to impose fines for illegal dumping. Mr. Stack said illegal dumping is a crime "flat out". He said his department has attended six summits with other states to discuss how to address the problem. But, he said, "there is no silver bullet. You can clean up the area and fence it off, as we've seen in Santa Fe County. But someone will come back if they want to dump there. They'll go around the fence, they'll cut the fence or they'll go 500 yards and, by God, they're going to dump. We need to explain what it does to the landscape, the costs, what it does to the community and the drastic negative impact on economic development".

### **Minutes; Approval of Subcommittee Recommendations**

The committee voted unanimously to adopt the minutes of the July 23 and 24 meeting of the LGC. It also voted unanimously to approve the following recommendations of the subcommittee:

- to draft a letter to the LFC in support of funding for an attorney, paralegal and administrative staff person for the AGO's Treaty of Guadalupe Hidalgo Division; and
- to write a letter to the editor of the *Rio Grande Sun* explaining that Rio Arriba County did not violate the state's anti-donation laws by giving money to a land grant, which Representative Rodella said an article in the newspaper alleged.

### **Jacona Land Grant**

Raymond Roybal gave a detailed history of the Jacona Land Grant, explaining that it was originally called the Pelaez Land Grant after Jacinto Pelaez, to whom the Spanish governor deeded the land in 1699. Mr. Roybal said Mr. Pelaez was a descendant of Pedro Robledo, who he said arrived with Don Juan de Oñate in 1599 and was the first of Oñate's party to die in New Mexico. He said the land grant sits on what used to be the Tewa villages of Jacona and Cuyamungue, whose residents abandoned the area.

When Mr. Pelaez and his wife died, said Mr. Roybal, they left the grant vacant. Mr. Roybal said his ancestor, Ygnazio Roybal, who was Pelaez' brother-in-law, claimed the land and won a private grant for 43,000 hectares — or about 100,000 acres — in 1702. Two years later, however, the Pueblo of San Ildefonso sued him for encroaching on its land and Ygnacio Roybal's land grant was revoked. In 1705, Ygnacio Roybal reapplied for the land grant, which he won minus the property belonging to the pueblo and minus all his former water rights. For \$50.00,

according to Mr. Roybal, Ygnacio Roybal bought a quarter-mile wide strip of land along the Pojoaque River that ran through Cuyamungue, Pojoaque and Santa Cruz.

Ygnacio Roybal continued to buy property, winding up in 1754 with 363 "animal units", according to Mr. Roybal, who said that equals about 68,700 acres. Ninety-six years later, however, the heirs were allowed only 7,000 acres by the United States following the signing of the Treaty of Guadalupe Hidalgo. In 1909, said Mr. Roybal, the United States forced the Jacona Land Grant to become a community land grant, only to confiscate the land in 1928 for back taxes. Mr. Roybal said the land grant reorganized in 1985. He said grantees spent an "ungodly amount of money" in court to determine who the heirs are. They own neither water nor mineral rights, he said, and they cannot get a right of way from the surrounding pueblos for electricity, gas or telephone service.

"The land is completely surrounded by all the Indians in the valley", Mr. Roybal said. "What do we do? They get subsidized. We get *nada*. They have casinos. And a lot of people from our community spend at those casinos. We have no jobs. We don't have the same rights they do. They don't pay tax; we do. We do not have the rights the Indians have".

Guy Eden, president of the Jacona Land Grant Association, said the land grant needs the committee's help to survive. Without legal and other expert help, he said, the land grant will have to sell parcels one at a time "until we have nothing left". He said the land grant has already sold property "so cheap we might as well have given it to them".

Representative Miguel Garcia said the Jacona Land Grant probably is eligible for political subdivision status. He said additional research could determine why the state took the land back in the nineteenth century, but that "it smells a lot like a *mordida* Thomas Catron would have made". He acknowledged the "confused question of Indian Country jurisdiction", calling it a "heck of a question for us". Representative Miguel Garcia said he would be willing to visit with the heirs of the Jacona Land Grant and urged them to apply for political subdivision status so they are no longer perceived as a "lowly nonprofit group".

"If you have political subdivision status, they have to negotiate with you", he said. "You become a player at the table".

Responding to questions from Senator Adair, Mr. Roybal said the asking price for Jacona Land Grant property is \$30,000 an acre. That compares to \$150,000 an acre elsewhere in the Pojoaque Valley, he said, explaining that the price is low because the land comes with no irrigation rights, only the right to drill a domestic well with water usage limited to 1.5 acre-feet — and probably less after the *Aamodt* water lawsuit is settled.

Senator Adair noted that if the land grant sells its remaining land for even just \$10,000 an acre, it stands to earn \$65 million. Mr. Roybal stressed that the consensus among grantees is to "keep the land in perpetuity" because "it's part of the heritage and inheritance of our ancestors". He added, "You're right — we could probably sell it for \$65 million and they'll put another Las

Campanas on it".

Representative Thomas Garcia recalled that his family was offered \$12 million for their ranch some years ago, but his father refused, recalling what his father said his grandfather told a man who offered to buy the ranch for lots of money in the 1800s: "When you can make land, come talk to me again". Representative Thomas Garcia added, "You can't anymore put a price tag on land. There are things that are more important than money".

Speaker Lujan noted there could be resistance to Jacona becoming a political subdivision among land grant residents who own large shares of the property. "I think it needs to be recognized that owners have to be willing to give up their ownership so that all property belongs to the subdivision and to all those heirs", he said. He noted that there are currently 350 owners of a total of 100 shares in the Jacona Land Grant Corporation. Giving up personal control and ownership rights could mean giving up a \$10 million to \$15 million asset to some owners.

Attorney John Sena, who is a member of the Jacona Land Grant, concurred, explaining that the shares are not merely voting rights, but property rights. "When you force shareholders into a choice like this, it's a due process problem", he said, describing the problem — and the statutes — as "very complicated". Many members want to sell the land and be done with it, he said.

Senator Carraro suggested that the committee ask the attorney general to interpret the law. He also took umbrage that the Pueblo of Pojoaque revoked its lease on land containing an elementary school and turned the school into part of its casino.

Based on its history, Representative Bandy suggested that Jacona might function as a private corporation. He also suggested that if the state engineer has historically recognized the land grant's water rights and if the water has been put to beneficial use, the state engineer should "go to bat" for the land grant. Speaker Lujan said the state engineer created the problem by accepting the court's ruling that the pueblo had aboriginal rights to the water.

### **Sebastian Martin Land Grant**

Eliu Martinez offered a history of the Sebastian Martin Land Grant, which he said he pieced together by doing extensive research in the state archives and in the courts. He said the land grant comprises 54,000 acres bordered by Ohkay Owingeh and the San Ignacio de la Canoa and Las Trampas land grants. Originally granted by the king of Spain, the Sebastian Martin Land Grant was confirmed by Congress in 1859 after Mariano Sanchez applied to the newly created Office of the Surveyor General to be recognized as an heir according to the Treaty of Guadalupe Hidalgo, Mr. Martinez said. Congress issued a patent in 1893 to the heirs, namely Ramon Martinez.

Mr. Martinez said the land grant was put up for auction in 1906 but that that the explanatory documents had been sliced into tiny pieces and were illegible. He suspects that the state auctioned it for back taxes that residents did not know they owed. He said the land went to the highest bidder, attorney James Freeman of Greeley, Colorado, who bought "the whole

shebang" for \$10,000, but residents petitioned the court to get it back. Mr. Martinez said Mr. Freeman prevailed, but he did not want to kick the settlers off the land. He allowed them to graze cattle and gather timber, provided they kept away from his personal property.

Mr. Martinez said Mr. Freeman's widow sold the land to the federal government for \$35,000 after her husband died, according to a document he said he recovered from the BLM only after threatening the agency with a lawsuit. Today, he said, the BLM and the USFS control the land grant, which he would like to see returned to the heirs. But he said he needs the committee's help in doing that because the BLM and the USFS will not acknowledge that they are on land grant property. He suggested that this would be a good case for the AGO's Treaty of Guadalupe Hidalgo Division to take on because the land was lost due to a state action, i.e., the auction.

### **BLM Issues to Be Addressed in Chama**

The committee talked about some of the issues it wants to discuss with the BLM at the upcoming LGC meeting in Chama, including:

- a possible memorandum of understanding with the state that land grants would be included in all BLM decision-making processes involving traditional lands;
- having the BLM explain how it disposes of land under its control;
- giving land grants the right of first refusal to repurchase from the BLM those properties that were once common lands (prompting Senator Carraro to say, "That could be like buying back your stolen car");
- putting a moratorium on the sale of common lands by the BLM;
- land grant boundaries and BLM encroachment;
- allowing heirs access to common lands under BLM control for traditional activities such as fishing, hunting, grazing and wood harvesting;
- BLM fees, permits and management issues on common lands; and
- enlightening the BLM about the committee's mission and how it functions.

The committee chair directed staff to invite a representative from U.S. Representative Tom Udall's office to the Chama meeting.

John Chavez reminded the committee that the BLM is planning to dispose of some 88,000 acres of land once it updates its plan for the Taos region, and 1,200 of those acres are within the Santa Cruz grant. He said that under BLM regulations, the state usually gets the first option to purchase surplus lands and, therefore, it is important for the state to step in and exercise this option on former grant lands in particular. Representative Bandy noted that the BLM will likely say that it cannot put a moratorium on land sales without congressional approval. Accordingly, he recommended that legislation being proposed to Congress this fall include a provision putting a moratorium on BLM land sales. Committee members also expressed support for the state to buy BLM land and resell it to land grants in the future.

The committee recessed at 6:11 p.m.

**Tuesday, August 21**

The committee took a bus tour of Nuestra Señora del Rosario, San Fernando y Santiago Land Grant, the Chimayó Museum, the Oratorio de Buenaventura and the Jacona Land Grant. The committee adjourned at approximately 1:15 p.m.